DOCUMENT RESUME

ED 244 691 JC 840 284

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TITLE Retraining of the Unemployed in North Carolina: A Progress Report.
INSTITUTION North Carolina State Advisory Council on Education, Raleigh.
PUB DATE 18 May 84
NOTE 30p.
PUB TYPE Reports - Descriptive (141)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Adult Education; *Employment Programs; *Retraining; State Programs; *Vocational Education
IDENTIFIERS *North Carolina

ABSTRACT

In February 1983, the North Carolina State Advisory Council on Education issued a paper entitled "Retraining of the Unemployed in North Carolina." The major recommendations of the paper were that the North Carolina Employment Security Commission (NCESC) require an employability plan for each person applying for unemployment benefits that would identify employment alternatives and training options; and that local boards of education and boards of trustees be petitioned to provide retraining for individuals identified by the NCESC. Actions taken during 1983 to address retraining needs in North Carolina included the passing of a joint resolution by the General Assembly on the issue of the "Unemployed and Underemployed"; support of the recommendations by the author of the joint resolution and by the Chief Counsel to the U.S. Committee on Education and Labor; and a project utilizing Job Training Partnership Act Title III funds to train displaced workers. These modest efforts to address retraining needs during 1983 led the Council to conclude that its recommendations had not been implemented and still remained current and appropriate. This progress report on the implementation of the Council's recommendations includes: (1) an overview of unemployment conditions and retraining efforts in North Carolina; (2) a reprint of "Retraining of the Unemployed in North Carolina"; (3) letters of support for the recommendations; and (4) California legislation providing support for retraining programs. (HB)

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ED244691

RETRAINING OF THE UNEMPLOYED IN NORTH CAROLINA: A PROGRESS REPORT

Adopted by The Council
May 18, 1984

Joseph W. Parry-Hill
and
Michael F. Latta

State Advisory Council on Education
530 North Wilmington Street
Raleigh, North Carolina 27604-1198

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JC 840 284

RETRAINING OF THE UNEMPLOYED IN NORTH CAROLINA:
A PROGRESS REPORT

Events during 1983 have reemphasized the need for a systematic approach to the retraining of tne unemployed in North Carolina. While the unemployment rate declined from 11.3 percent in January of 1983 to the seven percent range in January 1984[1], 13,000 workers in the state were displaced by permanent layoffs and plant closings.[2] Further, it is projected that the unemployment rate will remain near seven percent for the remainder of the decade.[3] Clearly, the need for retraining the unemployed will be a persistent problem in North Carolina.

In February 1983, the State Advisory Council on Education, hereafter called The Council, issued a paper entitled Retraining of the Unemployed in North Carolina. In its report, The Council made several recommendations to address the retraining needs of the unemployed. What action has been taken on these recommendations? On April 13, 1983, The General Assembly passed Senate Joint Resolution 136, dealing with the issue of the "Unemployed and the Underemployed." (See Appendix A.) On April 26, 1983, Senator Rachel Gray, author of the Joint Resolution, wrote that the implementation of The Council's recommendations would carry out the intent of the Resolution. (See Appendix B.) On March 4, 1983, the Chief Counsel to the U.S. Committee on Education and Labor provided support for The Council's paper. (See Appendix C.)

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1) State jobless rate drops to 7.6%, THE RALEIGH TIMES, March 30, 1984, p. 7C.

2) N.C. ANNOUNCED PLANT CLOSINGS IN PERMANENT LAYOFFS IN MANUFACTURING, 1983, Volume VI, Report by the Division of Business Assistance, N.C. Department of Commerce, January 1984.

3) North Carolina Long-Term ECONOMIC-DEMOGRAPHIC PROJECTIONS, by the State of North Carolina Office of State Budget and Management, 1984, p. 5.

However, the response of the state agencies which The Council addressed in its report has been very limited.

In 1983, the Employment Security Commission did initiate a project utilizing Job Training Partnership Act (JTPA) Title III funds to retrain displaced workers. This program served only five hundred fifty-seven of the 13,000 workers who needed this service. Although this effort to retrain the unemployed represents an increase over previous years, another state has undertaken and accomplished a more comprehensive approach to retraining the unemployed. The California Legislature enacted a law in 1982 to set aside one-tenth of one percent of the state's unemployment insurance funds for retraining. (See Appendix D.) During 1983, the California program served 11,800 displaced workers.[4] It is the view of The Council that similar results can be accomplished in North Carolina by implementing The Council's 1983 recommendations on retraining.

The Council finds that (1) the recommendations which it made in 1983 have not been implemented, and (2) because of the modest efforts during the past year to address the retraining needs of the unemployed, its retraining recommendations remain both current and appropriate. The paper Retraining of the Unemployed in North Carolina is therefore reprinted here for further consideration. The Council believes that the information in this progress report will assist the state agencies addressed in the report to respond more favorably in 1984 than they did in 1983. If such is not the case, The Council intends to make a request to the new State Administration in early 1985 that it petition the General Assembly to enact a law similar to the California statute for North Carolina.

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4) "RESKILLING" THE SOUTHERN WORK FORCE, Programs for Displaced Workers, FORESIGHT, Volume 2, Number 1, March 1984, pp. 9-10, by Stuart Rosenfeld, Director of Research and Programs, Southern Growth Policies Board.

RETRAINING OF THE UNEMPLOYED IN NORTH CAROLINA*

> "The only true form of unemployment insurance in a technological, industrial society is a program of education and training which provides people with the skills needed in that society."[1]

North Carolina is not a wealthy state. Nevertheless it has a high regard for education and devotes a substantial part of its resources to education and training. In 1981, 79% of the State's revenues went to education and training.[2] In spite of this commitment, the State has a number of important education and skills training needs which remain unmet. One area of concern is the need to retrain workers in occupations with declining demand. Workers in these occupations need to be retrained with new skills which will make them productive in the expanding industries of the State.

The need for retraining in North Carolina is substantial. While the State's labor force is estimated to have averaged almost three million in 1982, it is estimated that the average daily unenployment rate was 266,000 or 9.0%.[3] Moreover, a total of 431,599 unemployed workers collected State unemployment insurance benefits, with 88,700 (20.6%) exhausting their State entitlement.[4] Over 64,000 of these claimants later collected Federally funded extended benefits with 25,858 exhausting their rights to these benefits.[5] Because of changing technology and economic conditions, many of these unemployed workers may never be re-employed in their previous occupations. Without retraining the options of these citizens were: 1) to enter less skilled jobs, usually at a lower rate of pay, 2) to remain unemployed, or 3) to relocate where there were jobs for which the worker was qualified.

*Paper developed by Parry-Hill and Latta and adopted by The State Advisory Council on Education, February 18, 1983.

The State's Unemployment Insurance Fund represents one source of funds which could be used to support unemployed workers who need retraining. The North Carolina Employment Security Law established an Unemployment Insurance Fund which is "to be used for the benefit of persons unemployed through no fault of their own."[6] The majority of the monies are "contributed" by employers under the requirements of the law.[7] The law provides eligibility conditions for unemployment benefits which require that the unemployed individual:

a) Register for work at an employment office;

b) Claim benefits in accordance with the law; and,

c) Is able to work and is available for work.[8]

Under the law, unemployed individuals who are registered and attending established schools are usually NOT considered to be available for work and therefore are not eligible for unemployment benefits. However, there are two situations in which students are eligible for benefits: (1) individuals who were previously employed full-time and were attending school are not denied benefits if they are otherwise eligible; and (2) under conditions described below the North Carolina Employment Security Commission can approve a vocational or training program for an individual who is then deemed to be available for work. In fact, benefits may be denied if the Commission determines that the individual has "...failed without good cause to attend a vocational school or training program when so directed by the Commission."[9]

The conditions under which the Commission may approve training for an individual are ONLY if:

a)"Reasonable employment opportunities for which the individual is fitted by training and experience do not exist in the locality or are severely curtailed;

b) The training course relates to an occupation or skill for which there is expected to be reasonable opportunities for employment; and

c) The individual, within the judgment of the Commission, has the required qualifications and the aptitude to complete the course successfully."[10]

Although it is possible for individuals to receive unemployment benefits and train for new occupations, historically in North Carolina only a few people have been selected for "Commission Approved Training."*

There are a substantial number of unemployed workers in North Carolina who are likely to need retraining. According to the N. C. Department of Commerce 25,500 workers lost their jobs through permanent layoffs and plant closings in 1982. During the same period, industrial recruitment generated commitments for new and expanding plants which are expected to bring 22,000 jobs to the State.[11] Without retraining many of the unemployed are unable to fill these jobs. The Unemployment Insurance Fund** can be used to support retraining within the restrictions of the North Carolina Employment Security Law. However, before this can occur the Employment Security Commission must initiate procedures in order to effect this retraining. On the basis of these findings The Council recommends that:

RECOMMENDATION I. The North Carolina Employment Security Commission require an employability plan for each person applying for unemployment benefits.

The employability plan should utilize supply/demand information, such as may

*In 1981, 4 unemployed persons in North Carolina were enrolled in Commission Approved Training, and in 1982, 26 of the State's unemployed were enrolled in Commission Approved Training.

**State Unemployment Insurance entitlements range from 13 to 26 weeks depending on the work history of the claimant. In 1982, the average claimant collected 10.95 weeks of unemployment insurance benefits.

be provided by the State Labor Market Information System in order to examine the applicant's potential for re-employment with his or her current skills.

Currently, the Employment Security Commission conducts an "eligibility review" after a claimant has collected benefits for more than a month. This review provides for the preparation of a "work search plan." With modification the "eligibility review," prepared when an unemployment claim is initiated, could serve as the employability plan. When it is determined that a claimant has little probability of re-employment without either undergoing retraining or accepting less skilled work, The Council recommends that:

RECOMMENDATION II. The North Carolina Employment Security Commission require that the employability plan identify employment alternatives and training options, one of which must be selected in order to receive unemployment benefits.

The determination of work and training options could involve career information such as is provided by the North Carolina CHOICES system and other information regarding the individual's potential. Ideally, the employment alternatives and training options which are identified by the Employment Security Commission should be those that maximize the carry-over of skills and personal characteristics which were required in the prior job.[12] The need for the State's workforce to be retrained will increase as the effects of automation, robotics, and the information technologies affect the workforce. The implementation of training for the unemployed will require coordination with the providers of skills training.

There are a number of education and training sites located throughout the State. Most public education and training is provided through local high schools and Community College institutions. Currently, there are more than 2,000 public schools which are controlled by 143 local boards of education. In addition there are 58 Community College institutions which are

controlled by independent boards of trustees. These Community College institutions are located within 30 miles of 90% of the State's population. These public schools and post-secondary institutions provide a number of regular programs and services. In addition, special programs are offered. At the secondary school level, special programs include the extended day program for individuals needing education and training beyond the regular school day as well as programs offered through community schools. Likewise Community College institutions provide regular programs and special programs such as adult education and extension programs. State policies for these programs are established by the State Board of Education and the State Board of Community Colleges. Therefore, The Council recommends that:

RECOMMENDATION III. The Employment Security Commission petition the State Board of Education and the State Board of Community Colleges to request local Boards of Education and Boards of Trustees to provide retraining for individuals identified by the Employment Security Commission.

It will be necessary for the State Board of Education and the State Board of Community Colleges to cooperate with the Employment Security Commission if the State is to implement this retraining initiative for the unemployed. Without the support of local boards of education and local boards of trustees, the needed retraining of the unemployed cannot reasonably take place as these local boards control facilities and staff that will be needed in order to provide for the retraining of the unemployed. Accordingly, The Council recommends that:

RECOMMENDATION IV. The State Board of Education and the State Board of Community Colleges petition the Employment Security Commission to implement Recommendations I and II;

AND, that

The State Board of Education and the State Board of Community Colleges petition the local Boards of Education and Boards of Trustees to provide the necessary retraining of individuals identified by the Employment Security Commission.

The Council is aware that there is little prospect for additional funding at this time; therefore, if the retraining of the unemployed is to be addressed, existing funds must be used more effectively. In addition to the support already provided, there are funds which could be focused on this initiative. For example, the unemployed can use unemployment benefits to purchase training. Moreover, the Job Training Partnership Act, under Title III, permits State unemployment insurance funds to be used in providing up to 50% of the required non-Federal matching funds for retraining eligible individuals;[13] and Targeted Jobs Tax Credits may be used to encourage employers to hire disadvantaged students in cooperative education programs.[14]

The Council is also aware that there are a number of other agencies which could be brought into a fuller development of this retraining initiative. These agencies include at least the North Carolina Departments of Labor and Commerce, and the new councils under the Job Training Partnership Act. The full implementation of the retraining of the unemployed should involve the collaboration of industry, labor, and government in planning, funding, and operating retraining programs.[15]

If the Recommendations in this report had been in effect during 1982, some 431,000 unemployed North Carolinians would have had their need for retraining examined by the Employment Security Commission and it is estimated that at least 25,000 individuals could have been in retraining. Moreover, the implementation of the Recommendations would contribute to the goal of upgrading North Carolina's unemployed with skills required in the job market.

FOOTNOTES

1. Striner, Herbert E., CONTINUING EDUCATION AS A NATIONAL CAPITAL INVESTMENT, W. E. Upjohn Institute for Employment Research, 1972, p. 57.

2. SELECT COMMITTEE ON THE DEPARTMENT OF PUBLIC EDUCATION, REPORT TO THE 1983 GENERAL ASSEMBLY OF NORTH CAROLINA, Select Committee to study the Department of Public Education, January 1983, p. 17.

3. BASIC DATA REPORT, 1982, Employment Security Commission of North Carolina Labor Market Information Division, Unpublished. (To be published, October 1983, entitled NORTH CAROLINA LABOR FORCE ESTIMATES BY COUNTY, AREA, AND STATE.)

4. TRENDS, Employment Security Commission of North Carolina Labor Market Information Division, December 1982, p. 8.

5. IBID. pp. 40-41.

6. EMPLOYMENT SECURITY LAW OF NORTH CAROLINA, (Reprinted from the General Statutes of North Carolina), Chapter 96 Section 2.

7. IBID. 96-6 and 96-9.

8. IBID. 96-13 (a).

9. IBID. 96-14 (4) a.

10. IBID. 96-13 (a).

11. "25,496 lost jobs in N.C. last year", The News and Observer, January January 30, 1983, p. 23A.

12. Hunter, John E., THE ECONOMIC BENEFITS OF PERSONNEL SELECTION USING ABILITY TESTS: A STATE OF THE ART REVIEW. 1981, Unpublished paper.

13. PL 97-300, The Job Training Partnership Act, Title III. Sec. 304 (b)(2), October 13, 1982.

14. "Targeted Jobs Tax Credit--PL 97-248", Manpower and Vocational Education Weekly, Vol. 14, No. 1, January 6, 1983, p. 8.

15. "Retraining is the Wave of the Future, Experts Say", Manpower and Vocational Education Weekly, Vol. 14, No. 2, January 13, 1983, p. 9.

APPENDIX A

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1983
RATIFIED BILL

RESOLUTION 12
SENATE JOINT RESOLUTION 136

A JOINT RESOLUTION EXPRESSING THE CONCERN OF THE MEMBERS OF THE GENERAL ASSEMBLY AT THIS TIME OF SUBSTANTIAL UNEMPLOYMENT, AND UNDER-EMPLOYMENT, AND URGING THAT ALL INSTRUMENTALITIES OF GOVERNMENT JOIN IN CONSTRUCTIVE ACTION TO ALLEVIATE THE PRESENT DISTRESS.

Whereas, the members of the North Carolina General Assembly are keenly aware of the serious problems being caused by unemployment, in North Carolina and in the entire nation; and

Whereas, this matter of critical importance is an issue for legislative consideration requiring the best thought and the most effective action that can be taken; and

Whereas, any action taken to improve employment serves to improve productivity and to increase the resources of the public treasury, which in turn allows further action to be taken for the benefit of all our citizens;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina hereby resolves to do all in its power to alleviate the problem of unemployment in the State.

Sec. 2. The General Assembly urges and encourages all educational institutions to become familiar with community needs, and to respond to these needs by adapting extension and vocational education programs to the employment conditions peculiar to their respective attendance areas.

Sec. 3. The General Assembly directs the State Board of Education to urge all educational institutions of this State to develop instructional courses and programs to teach practical and vocational skills to the unemployed.

Sec. 4. The General Assembly directs the State Board of Community Colleges to intensify the present vocational and technical instruction offered by the 58 institutions within its jurisdiction, and to make a redoubled effort to enroll those persons now unemployed, or under-employed.

Sec. 5. This resolution is effective upon ratification. In the General Assembly read three times and ratified, this the 13th day of April, 1983.

JAMES C. GREEN

James C. Green
President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey
Speaker of the House of Representatives

APPENDIX B

RECEIVED
APR 28 1983
8AC

North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh 27611

SENATOR RACHEL GRAY
32ND DISTRICT
HOME ADDRESS: 612 GATEWOOD AVENUE
HIGH POINT, N. C. 27260

COMMITTEES:
STATE GOVERNMENT, VICE CHAIRMAN
SENIOR CITIZENS AFFAIRS, CHAIRMAN
BANKING
FINANCE
HUMAN RESOURCES
RULES AND OPERATION OF THE SENATE

April 26, 1983

Mr. C. D. Spangler, Chairman
State Board of Education
P. O. Box 36007
Charlotte, North Carolina 28236

Dear Mr. Spangler:

It has been brought to my attention that you are aware of Senate Joint Resolution 136 that I introduced and that was ratified on April 13, 1983. The Resolution is effective immediately and it calls on the State Board to assist with our substantial unemployed and under-employed people. A copy of the Resolution is attached for your information.

Recently, I read a paper titled "The Retraining of the Unemployed in North Carolina", prepared by the State Advisory Council on Education. I believe the recommendations in the paper, if fully implemented, have the potential to carry out the intent of my Resolution. I am informed that you discussed the Retraining paper at the recent meeting of your Board, but no action was taken. I want to urge you to act on the recommendations in the paper and I have asked Mr. Glenn Jernigan, Chairman of the Employment Security Commission, to assist in this effort. Moreover, I would appreciate it if you would ask your staff to keep you, the Board members, and me informed as to the implementation of the Resolution.

You are often quoted as saying that the General Assembly is "your banker". One of the roles of a banker, as you know, is to suggest a better return on your investment. The purpose of my Resolution is to make sure that our schools invest some energy in assisting the unemployed so that they can be prepared to go to work, so that in return they will be tax payers rather than a tax drain.

Thank you for your consideration of this request.

Sincerely,

Rachel Gray

Rachel Gray

CC: Members of the State Board
Dr. A. Craig Phillips
Mr. James O. Barber

APPENDIX B

1

RECEIVED
APR 28 1983
SAC

North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh 27611

SENATOR RACHEL GRAY
32ND DISTRICT
HOME ADDRESS: 612 GATEWOOD AVENUE
HIGH POINT, N. C. 27260

April 26, 1983

COMMITTEES:
STATE GOVERNMENT, VICE CHAIRMAN
SENIOR CITIZENS AFFAIRS, CHAIRMAN
BANKING
FINANCE
HUMAN RESOURCES
RULES AND OPERATION OF THE SENATE

Mr. Carl Horn, Jr., Chairman
State Board of Community Colleges
2111 S. Wendover Road
Charlotte, North Carolina 28211

Dear Mr. Horn:

It has been brought to my attention that you are aware of Senate Joint Resolution 136 that I introduced and that was ratified on April 13, 1983. The Resolution is effective immediately and it calls on the State Board to assist with our substantial unemployed and under-employed people. A copy of the Resolution is attached for your information.

Recently, I read a paper titled The Retraining of the Unemployed in North Carolina, prepared by the State Advisory Council on Education. I believe the recommendations in the paper, if fully implemented, have the potential to carry out the intent of my Resolution. I am informed that you discussed the Retraining paper at the recent meeting of your Board, but no action was taken. I want to urge you to act on the recommendations in the paper and I have asked Mr. Glenn Jernigan, Chairman of the Employment Security Commission, to assist in this effort. Moreover, I would appreciate it if you would ask your staff to keep you, the Board members, and me informed as to the implementation of the Resolution.

Thank you for your consideration of this request.

Sincerely,

Rachel Gray

Rachel Gray

CC: Members of the State Board of Community Colleges
Dr. Robert W. Scott, State President

APPENDIX B

RECEIVED
APR 28 1983
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North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh 27611

SENATOR RACHEL GRAY
32ND DISTRICT
HOME ADDRESS: 612 GATEWOOD AVENUE
HIGH POINT, N. C. 27260

April 26, 1983

COMMITTEES:
STATE GOVERNMENT, VICE CHAIRMAN
SENIOR CITIZENS AFFAIRS, CHAIRMAN
BANKING
FINANCE
HUMAN RESOURCES
RULES AND OPERATION OF THE SENATE

Mr. Glenn Jernigan, Chairman
Employment Security Commission of North Carolina
Post Office Box 25903
Raleigh, North Carolina

Dear Glenn:

While I miss you in the Senate, I am pleased you are serving as Chairman of our Employment Security Commission (ESC). In this important post, you can be of real help to countless thousands of North Carolinians. That is the purpose of this letter.

Perhaps you are aware of Senate Joint Resolution 136 which I introduced. It was ratified (copy attached) on April 13, 1983, and it is effective immediately. ESC can play a vital role in implementing this Act. At your earliest convenience, I would like to talk with you about what ESC can do in this regard.

Recently, I read a paper titled The Retraining of the Unemployed in North Carolina, prepared by the State Advisory Council on Education. It seemed to me that this paper provides some good recommendations we ought to consider. A copy is attached. I want to encourage you to work with the State Board of Education and the State Board of Community Colleges in responding to the paper so as to implement my resolution.

I look forward to hearing from you and working with you on implementing this resolution.

My best regards.

Sincerely,

Rachel

Rachel Gray

RG/nw

APPENDIX C

MAJORITY MEMBERS:
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IKE ANDREWS, N.C.
GEORGE MILLER, CALIF.
BALTASAR CORRADA, P.R.
DALE E. KILDEE, MICH.
PAT WILLIAMS, MONT.
AUGUSTUS F. HAWKINS, CALIF.
MARIO BIAGGI, N.Y.
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(202) 226-4368

MINORITY MEMBERS:
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STEVE GUNDERSON, WIS.
STEVE BARTLETT, TEX.
JOHN N. ERLENBORN, ILL., EX OFFICIO

COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
B-346C RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

RECEIVED
MAR - 7 1983
SAC

March 4, 1983

Mr. E. Michael Latta
Executive Director
State Advisory Council on Education
Raleigh, NC 27604

Dear Mike:

Thank you for your letter giving me the recommendations of the State Advisory Council on Education concerning the retraining of the unemployed.

These recommendations will be very helpful. I have enclosed for your information copies of the letter Congressman Perkins sent to Secretary of Labor Raymond Donovan and his reply on this subject.

Sincerely,

John F. Jennings
Counsel

JFJ:tep

MAJORITY MEMBERS
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AUGUSTUS F. HAWKINS, CALIF.
WILLIAM D. FORD, MICH.
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JOSEPH M. GAYDOS, PA.
WILLIAM (BILL) CLAY, MO.
MARIO BIAGGI, N.Y.
IKE ANDREWS, N.C.
PAUL SIMON, ILL.
GEORGE MILLER, CALIF.
AUSTIN J. MURPHY, PA.
TED WEISS, N.Y.
MATTHEW G. MARTINEZ, CALIF.
DALE E. KILDEE, MICH.
PETER A. PEYSER, N.Y.
PAT WILLIAMS, MONT.
WILLIAM R. RATCHFORD, CONN.
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DENNIS E. ECKART, OHIO

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MARGE ROUKEMA, N.J.
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LAWRENCE J. DENARDIS, CONN.
LARRY CRAIG, IDAHO
WENDELL BAILEY, MO.
STEVE GUNDERSON, WIS.

TELEPHONES:
MAJORITY—225-4527
MINORITY—225-3725

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

December 9, 1982

The Honorable Raymond J. Donovan
Secretary
Department of Labor
Frances Perkins Building
Third Street and Constitution Avenue
Washington, D.C. 20210

Dear Mr. Secretary:

I have been contacted by several State legislators expressing concern that unemployed people receiving Federally assisted unemployment compensation are forbidden to seek further education or training.

As reflected by these State legislators, there seems to be some confusion among various State agencies about whether this prohibition is a Federal requirement or a State-imposed requirement. Therefore, I would be very appreciative if you could give me your views on this issue.

More specifically, I would invite your comments about the following: What exactly is required by Federal law? What is required by Federal regulation? And what is discretionary with the States?

Your comments in this regard would be very helpful; and after receiving them I will send them on to these State legislators who are, as follows: Mr. Horace Daggett of Lenox, Iowa; Mr. Lawrence Hawkins of Miami, Florida; Mr. Wally Horn of Cedar Rapids, Iowa; and Ms. Midge Miller of Wisconsin.

Thank you for your assistance in this matter.

Sincerely,

Carl D. Perkins
Chairman

CDP:mh

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

FEB 8 1983

Honorable Carl D. Perkins
Chairman
Committee on Education and Labor
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in reply to your letter of December 9, with reference to Federal and State requirements relating to unemployment compensation and education or training.

You have requested my comments on the following questions: What exactly is required by Federal law? What is required by Federal regulation? And what is discretionary with the States?

The Federal Unemployment Tax Act includes, as one of the requirements which a State unemployment compensation law must meet in order for employers in such State to be credited with a 2.7 credit against the Federal tax (3.5 percent as of January 1, 1983), the following provision:

> "Sec. 3304(a)(8) compensation shall not be denied to an individual for any week because he is in training with the approval of the State agency (or because of the application, to any such week in training, of State law provisions relating to availability for work, active search for work, or refusal to accept work);"

Additionally, in the Trade Act of 1974, as amended, State agreements with the Secretary of Labor regarding the payment of Trade Readjustment Allowances must meet the following requirements:

> "Sec. 236(a)(2). A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter because the individual is in training approved under paragraph (1), because of leaving work which is not suitable employment to enter such training, or because of the application to any such week in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work...."

There are no supplementary Federal regulations. States have adopted statutory provisions consistent with the Federal requirements which vary somewhat from State to State. In your letter you have indicated an interest in the laws of Florida, Iowa, and Wisconsin. Specific language in the laws of these States is quoted below, as follows:

Florida

"Sec. 443.091(c)2. Notwithstanding any other provisions in this section, no otherwise eligible individual shall be denied benefits for any week because he is in training with the approval of the division, nor shall such individual be denied benefits with respect to any week in which he is in training with the approval of the division by reason of the application of provisions in subparagraph 1. of this paragraph relating to availability for work, or the provisions of s.443.101(2) relating to failure to apply for, or a refusal to accept, suitable work.

"Sec. 443.091(c)3. Notwithstanding any other provision of this chapter, an individual who is in training approved under section 236(a)(1) of the Trade Act of 1974, as amended, may not be determined to be ineligible or disqualified for benefits with respect to his enrollment in such training, or because of leaving work which is not suitable employment to enter such training. For purposes of this subparagraph, the term 'suitable employment' means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, as defined for purposes of the Trade Act of 1974, as amended, the wages for which are not less than 80 percent of the worker's average weekly wage as determined for purposes of the Trade Act of 1974, as amended."

Iowa

"Sec. 96.4.6. a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

b. An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. sec. 2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

For purposes of this paragraph, 'suitable employment' means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. sec. 2319(1), if wages for the work are not less than eighty percent of the individual's weekly benefit amount."

Wisconsin

"Sec. 108.04(16)(a) Benefits shall not be denied nor shall sub. (1)(a), (2) or (8) operate to deny benefits to any otherwise eligible individual for any week because the individual is enrolled in a full-time course of vocational training or basic education which is a prerequisite to such training, provided it is determined that:

1. The individual possesses aptitudes or skills which can be usefully supplemented by training; and

2. The course is expected to increase his opportunities to obtain employment, is of not more than 10 months duration, does not grant substantial credit leading to a bachelor's or higher degree, and is given by a school established under s. 38.15 or 38.155 or other training institution approved by the department; and

3. The individual can reasonably be expected to complete the training course successfully, and to find and accept work; and

4. The individual attended the training course full time during the given training week or had good cause for his failure to do so, and is making satisfactory progress in the course. The department may require the training institution to file a certification showing the individual's attendance and progress.

(b) Benefits may not be denied, nor does sub. (2), (7) or (8) operate to deny benefits to any otherwise eligible individual for any week because the individual is enrolled in, or left work that was not suitable to enter, training under section 236 of the federal trade act of 1974 as amended. The definitions in that act apply to the terms used in this paragraph.

The Wisconsin law otherwise provides for disqualification if the claimant fails either to apply for work when notified by a public employment office or to accept work when offered.

The operative provision of Federal law cited above was enacted in 1970 in the Employment Security Amendments of that year, effective as of January 1, 1972, and is clearly intended to encourage, not to forbid, the training of unemployment compensation claimants. This is also true of the 1981 amendment to the Trade Act. The State statutes quoted above have the same purpose. It is the position of this Department, and of the Administration in general, similarly to encourage training that will improve the employability of unemployment compensation claimants. The determination of whether a particular training opportunity is consistent with the individual State guidelines is, under Federal law, within the responsibility and authority of such State.

Please let me know if I can be of any further assistance.

Sincerely,

Signed Raymond J. Donovan

Raymond J. Donovan

APPENDIX D

Assembly Bill No. 3461

CHAPTER 1074

An act to add and repeal Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3 of the Unemployment Insurance Code, relating to the Employment Training Panel.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3461, Johnston. Employment Training Panel.

Existing law does not provide for an Employment Training Panel or an Employment Training Fund.

This bill would establish the Employment Training Panel in the Employment Development Department consisting of 7 members appointed by the Speaker of the Assembly, the President pro Tempore of the Senate, and the Governor, for 2-year staggered terms. The panel would allocate money in the Employment Training Fund, which would be appropriated annually in the Budget Act for the purposes of this bill.

This bill would permit the panel to meet as necessary and designate local review panels to review and recommend proposals to the panel for final approval, would require the panel to perform specified duties, and would specify the purposes for which the panel would be permitted to allocate money from the fund.

This bill would permit the panel to employ necessary personnel, and would require the Employment Development Department to develop and maintain a specified history of program participants and unemployment insurance claimants, and to cooperate with the panel by offering necessary technical assistance. It would require the Department of Economic and Business Development to provide specified technical assistance to the panel.

This bill would require the Legislative Analyst to report to the Legislature not later than May 1, 1984, and each May 1 thereafter, on the performance and the cost effectiveness of the program provided by the bill.

This bill would remain in effect only until January 1, 1987, unless a later enacted statute deletes or extends that date.

This bill would not become operative unless AB 3154 is enacted and becomes operative on or before January 1, 1983.

The people of the State of California do enact as follows:

SECTION 1. Chapter 3.5 (commencing with Section 10200) is added to Part 1 of Division 3 of the Unemployment Insurance Code, to read:

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CHAPTER 3.5. EMPLOYMENT TRAINING PANEL

10200. The Legislature declares as follows:

(a) There are an inadequate number of jobs in this state to meet the needs of those seeking employment.

(b) Despite the large number of unemployed job seekers, many employers in new and expanding industries are having difficulty finding the skilled workers they need. A similar problem exists in industries where overall employment may not be expanding but where there is an acute need for skilled workers in particular occupations.

(c) Under existing law, all employer taxes paid into the unemployment insurance system compensate unemployment insurance recipients for being out of work. The intent of this chapter is to use a small portion of employer taxes to put unemployment insurance recipients to work by encouraging employers to locate and expand facilities in this state and training unemployment insurance recipients in skills needed by employers.

(d) The purpose of this chapter is to establish an employment training program which shall foster job creation, minimize employers' unemployment costs, and meet employers' needs for skilled workers by providing skills training to unemployment insurance claimants, recent exhaustees of unemployment insurance who have remained unemployed, and potentially displaced workers who would otherwise become unemployment insurance claimants. It is the intent of the Legislature that all training funded through this chapter result in jobs for those who successfully complete the training.

(e) The funds made available by this chapter shall supplement but not displace funds available through existing programs conducted by employers themselves and public programs such as the California Worksite Education and Training Act, the Youth Employment and Development Act, or apportionment funds allocated to the community colleges, regional occupational centers and programs, or other local educational agencies. In addition, it is further the intention of the Legislature that programs developed pursuant to this chapter shall not replace, parallel, supplant, compete with, or duplicate in any way already existing approved apprenticeship programs.

10201. As used in this chapter:

(a) "Employer" means any employer subject to Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code, except any public entity, as defined by paragraph (3) of subdivision (a) of Section 135 of that code, and any nonprofit organization, as described in Section 608 of that code.

(b) "Eligible participant" means any person who, prior to beginning training or employment pursuant to this chapter, was either (1) unemployed and either receiving unemployment

insurance benefits, or had exhausted eligibility for unemployment insurance benefits within the previous 52 weeks, or (2) is employed but is determined by the panel to be likely to be displaced and therefore claiming unemployment insurance benefits.

(c) "Panel" means the Employment Training Panel created by Section 15382.

(d) "Fund" means the Employment Training Fund created by Section 1610.

(e) "Department" means the Employment Development Department.

(f) "Training agency" means any private training entity or local educational agency.

10202. (a) There is hereby established in the department the Employment Training Panel consisting of seven persons with experience and a demonstrated interest in business management and employment relations.

(b) Two members of the panel shall be appointed by the Speaker of the Assembly, two members of the panel shall be appointed by the President pro Tempore of the Senate, and three members of the panel shall be appointed by the Governor. The Governor shall designate a member to chair the panel, and the person so designated shall serve as the chair of the panel at the pleasure of the Governor.

(c) The members of the panel shall serve for two-year terms, except that of the initial members of the panel, one initial appointee of each appointing power shall serve for a one-year term.

(d) Members of the panel shall receive their necessary expenses, and per diem of one hundred dollars ($100).

10203. The panel may meet as necessary at locations throughout the state.

10204. The panel may designate local review panels to review and recommend proposals to the panel for final approval. Recommendations shall be based on the following:

(a) Local labor market demand.

(b) The capabilities and past performance of local training agencies and employers.

(c) In-kind contributions by employers, including, but not limited to, equipment, instructors, and training facilities.

(d) The priorities established in subdivision (b) of Section 10205.

The panel shall have the authority to withdraw its designation from those local review panels which do not meet these standards.

10205. The panel shall do all of the following:

(a) Solicit proposals and write contracts on the basis of proposals made directly to it and on the basis of the recommendations of the local review panels. Contracts may be written with any employer or any group of employers acting jointly or any training agency for the purpose of providing employment training. These contracts shall be in the form of fixed-fee performance contracts. Notwithstanding any provision of law to the contrary, contracts entered into pursuant to

this chapter shall not be subject to competitive bidding procedures. No contract shall be written for a period of more than 18 months.

(b) Allocate the Employment Training Fund. In doing so, the panel shall seek to facilitate the employment of the maximum number of eligible participants in jobs with definite career potential and long-term job security. In no case shall the statewide allocation be based solely on population. Nothing in this chapter shall be construed to preclude the panel from entering into contracts with employers, groups of employers, or training agencies for the provision of training in multijurisdictional areas of the state. In writing contracts, priority shall be given to employers and training for employers who are expanding their business enterprises in this state, to employers and training for employers who are establishing enterprises in areas targeted for economic development by the Department of Economic and Business Development, and to employers and training for employers in industries in which there are critical skills shortages. Preference shall be given to apprenticeship and similar training in which a person is employed at the commencement of training.

(c) Establish minimum standards for the consideration of proposals, which shall include, but not be limited to, the identification of employers who will employ successful trainees, the number of jobs available, the skill requirements for the identified jobs, the projected cost per trainee, and the wage level of the available jobs. No proposal shall be considered which proposes training for employment covered by a collective bargaining agreement unless the signatory labor organization agrees in writing.

(d) Ensure the provision of adequate fiscal and accounting controls for, monitoring and auditing of, and other appropriate technical and administrative assistance to, projects funded by this chapter.

(e) Provide for evaluation of projects funded by this chapter. Individual project evaluations shall contain a summary description of the project, the number of persons entering training, the number of persons completing training, the number of persons employed at the end of the project, the number of persons still employed three months after the end of the project, the wages paid, the total costs of the project, and the total reimbursement received from the Employment Training Fund.

(f) Report annually to the Legislature, by September 30, on projects operating during the previous state fiscal year. These annual reports shall provide separate summaries of (1) projects completed during the year, including their individual and aggregate performance and cost; and (2) projects not completed during the year, briefly describing each project and identifying approved contract amounts by contract and for this category as a whole. The first annual report is due September 30, 1984.

(g) Expedite the processing of contracts for firms considering

locating or expanding businesses in the state, as determined by the Department of Economic and Business Development.

10206. The panel may allocate money in the fund for any of the following purposes:

(a) Reimbursement of actual training costs incurred by employers and training agencies and for reasonable administrative costs.

(b) Costs of program administration incurred under this chapter.

(c) Costs of the Legislative Analyst's program evaluation conducted pursuant to Section 15395.

10207. Programs approved under Chapter 2.7 (commencing with Section 9900) of Division 3 of the Unemployment Insurance Code may apply to the panel for funding for programs that further the purposes of this chapter.

10208. Nothing in this chapter shall be construed to preclude any employer from contracting with any public or private training entity for services, subject to the approval of the panel.

10209. (a) Contracts shall only be made with employers, groups of employers, or training agencies for job-linked training which provides specific skills for career advancement or which is preparatory for, and leads directly to, jobs with definite career potential and long-term job security.

(b) Payments shall be made in accordance with a performance contract under which partial payments may be made during training, a partial payment may be made on placement or retention of each trainee, and not less than 25 percent of the negotiated fee is withheld until the trainee has been retained in employment for 90 days after the end of training.

10210. Contracts shall be made with training agencies only if the training agency can demonstrate all of the following:

(a) The training agency has a satisfactory record of past performance in the placement and retention of former trainees and employer satisfaction with former trainees.

(b) The training agency can demonstrate labor market demand for the proposed training. Proof shall include, but not be limited to, the documented need of specific employers for the workers proposed to be trained in the skills proposed by the training agency.

(c) The training agency can demonstrate that the training prepares trainees in a manner satisfactory to employers.

(d) The training agency can demonstrate that its accounting systems include controls adequate to check the accuracy and reliability of accounting data, promote operating efficiency, and assure compliance with government requirements and generally accepted accounting principles. The panel shall have full access at any time to these accounting systems to assure compliance with these standards.

10211. A trainee or employee participating in a training program pursuant to this chapter shall be considered to be in a training program having the approval of the director under the provisions of

Section 1274.1 of the Unemployment Insurance Code.

10212. The panel may employ personnel necessary to carry out the purposes of this chapter. All personnel of the panel shall be under the supervision of the chair or an executive director to whom he or she delegates this responsibility. All personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for an executive director and two assistant directors, who shall be exempt.

10213. The Employment Development Department shall cooperate with the panel by offering necessary technical assistance, which may include, but is not limited to, labor market information, projections of occupational demand, and information and advice on alternative training strategies.

10213.5. The Department of Economic and Business Development shall determine those firms considering locating or expanding businesses in the state in order to enable the Employment Training Panel to expedite the processing of contracts for these firms pursuant to subdivision (g) of Section 10205. The Department of Economic and Business Development shall also provide technical assistance by marketing the Employment Training Fund to newly locating or expanding businesses in the state and by assisting in the packaging of employer contracts for training of eligible participants from the Employment Training Fund.

10214. To assist the panel and the Legislature in assessing the impact of this chapter over an extended period of time, the Employment Development Department shall develop and maintain a continuous employment, wage, and benefit history of participants in projects authorized pursuant to this chapter and of a random sample of unemployment insurance claimants. The design of this history shall be subject to the review and approval of the panel and the review and recommendations of the Legislative Analyst.

10215. The funding of individual project grants by the panel may take the form of either direct grants to the employer or training agency, or credits to the employer's liability for unemployment insurance contributions or reimbursements. Credits to the employer's liability for unemployment insurance contributions or reimbursements shall be drawn from the Employment Training Fund.

10216. The Legislative Analyst shall report to the Legislature by May 1, 1984, and each May 1 thereafter, on the performance and the cost effectiveness of the program operated under this chapter. The Legislative Analyst's report shall recommend any appropriate improvements to be made if the program is extended beyond January 1, 1987. Recommendations shall include statutory changes and other sources of funding which are from existing programs and not employer-financed.

10217. Funds in the Employment Training Fund created by

Section 1610 shall be appropriated annually in the Budget Act by the Legislature for allocation by the panel for the purposes of this chapter.

10218. This chapter shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 2. Nothing in this act shall be construed to create any liability or authorize any sanctions against an employer who provides assurances of employment for trainees and is unable to employ trainees as anticipated due to circumstances beyond the control of the employer.

SEC. 3. The Department of Business and Economic Development shall discharge its new responsibilities under this act relating to the Employment Training Fund within the existing staff positions authorized for the 1982–83 budget year.

SEC. 4. This act shall not become operative unless Assembly Bill No. 3154 of the 1981–82 Regular Session of the Legislature is enacted and becomes operative on or before January 1, 1983.

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(October 1, 1983)
(Corrected 1-4-84)

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